

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TODD A. ROBERTSON,

No. C 10-2939 SI

Plaintiff,

**ORDER TRANSFERRING CASE TO
DISTRICT OF OREGON**

v.

WELLS FARGO HOME MORTGAGE,

Defendant.

Defendant's motion to dismiss the complaint is scheduled for a hearing on September 17, 2010. Pursuant to Civil Local Rule 7-1(b), the Court determines that the matter is appropriate for resolution without oral argument and VACATES the hearing.

Pro se plaintiff Todd Robertson filed this action challenging a loan that he allegedly received for a property located at 5310 3rd Street, Tillamook, Oregon. Defendant Wells Fargo filed a motion to dismiss the complaint for improper venue and/or for failure to state a claim. Plaintiff's opposition to the motion was due no later than August 27, 2010. Plaintiff did not file an opposition, but has made other filings.¹

The complaint alleges claims under federal and state law, and thus venue is governed by 28 U.S.C. § 1391(b). That section provides,

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or (3) a judicial district in which any defendant may be found, if there is no district in which the action

¹ On August 30, 2010, plaintiff filed a certificate of service.

1 may otherwise be brought.

2 28 U.S.C. § 1391(b). Wells Fargo asserts that its main office is in South Dakota, and that it is a citizen
3 of that state. Accordingly, venue is proper in this district only if a “substantial part of property that is
4 the subject of the action is situated” in this district. *Id.* § 1391(b)(2). The property that is the subject
5 of this action is located in Oregon, and thus venue is proper in the District of Oregon.

6 Pursuant to 28 U.S.C. § 1406(a), the Court has discretion to transfer this case to the District of
7 Oregon rather than dismissing it. Although defendant persuasively argues that the complaint does not
8 state a claim and should be dismissed, in light of plaintiff’s *pro se* status the Court will exercise its
9 discretion and TRANSFER this case to the District of Oregon. Defendant may renew its motion to
10 dismiss in the Oregon court.

11
12 **IT IS SO ORDERED.**

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14 Dated: September 13, 2010



SUSAN ILLSTON
United States District Judge